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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/518,729

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EXAMINER

LEWIS, JUSTIN V

ART UNIT

PAPER NUMBER

3725

MAIL DATE

DELIVERY MODE

11/07/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/518,729	Applicant(s) ANCONA ET AL.	
	Examiner JUSTIN V. LEWIS	Art Unit 3725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicants' amendment, received on 25 July 2008 is acknowledged.

Amended claim 1 has been entered. Accordingly, claims 1-11 are currently pending.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1, 3, 5-8 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication No. 2001/0035645 to Carides et. al. ("Carides") in view of U.S. Patent No. 5,779,482 to Fukumoto ("Fukumoto").

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Carides discloses a material (label 10) made up of at least a first and a second sheet (base ply 14 and second ply 26, respectively), each having two opposite faces designated as front and back faces, at least one of these faces being intended to bear legible printed information (see Carides paragraph 15, lines 1-3), wherein: i) said first sheet is made up of opaque material (see paragraph 33, lines 9-14) and bears printed information (see paragraph 15, lines 1-4) and the second sheet is made up of transparent material (see paragraph 46, line 13); or ii) said first sheet is made up of transparent and flexible material (see paragraph 33, lines 14-17; see also paragraph 33, lines 1-6) and bears printed information on its front face (see paragraph 15, lines 1-4) and is superimposed on the front face of said second sheet (note that second sheet is made of transparent material); or iii) said second sheet is made up of opaque material (see claim 13), said first sheet being made up of opaque and flexible material (see paragraph 33, lines 9-14 and paragraph 33, lines 1-6) and bears the printed information at least on its front face (see paragraph 15, lines 1-4), but fails to disclose information in the form of reliefs.

Fukumoto teaches the concept of providing in addition to the printed information, legible information which, distinct from the printed information, is made up in the form of reliefs which appear to be superimposed on the legible printed information (see col. 4, lines 3-5) without changing the legibility of the printed information (see col. 5, lines 25-34, providing that transparent three-dimensional ink may be used to form the raised indicia), wherein the information

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in relief is formed by deposit of an element in relief on at the front face of a sheet (see col. 5, lines 25-34).

It would have been obvious to a person of ordinary skill in the art at the time of the invention to provide the Fukumoto information in relief on the Carides second sheet front face, such that it is superimposed on the front face of the first sheet that bears the printed information, in order to enable both healthy persons and the visually handicapped to understand designs formed on the sheet, as explicitly taught by Fukumoto (see col. 5, lines 25-34).

5. Claims 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carides in view of Fukumoto and further in view of U.S. Patent No. 5,753,350 to Bright ("Bright").

Carides in view of Fukumoto discloses the material of claim 1, but fails to disclose the local modification and deformation of the sheets.

Bright teaches the concept of forming information in relief by means of local modification and deformation along the thickness of a sheet (see col. 2, lines 6-9).

It would have been obvious to a person of ordinary skill in the art at the time of the invention to utilize the Bright local modification method to form raised indicia on the label of Carides in view of Fukumoto, in order to provide braille labeling for containers, as explicitly taught by Bright (see col. 1, lines 14-16).

6. Claims 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carides in view of Fukumoto and further in view of U.S. Patent No. 5,566,823 to Summers ("Summers").

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Carides in view of Fukumoto discloses the material of claim 8, but fails to disclose its incorporation into lining for a receptacle.

Summers teaches the concept of incorporating material having raised indicia within the inner lining of a receptacle.

It would have been obvious to a person of ordinary skill in the art at the time of the invention to attach the braile label of Carids in view of Fukumoto on the Summers toothbrush holder receptacle in order to mark the receptacle such that each user may be assigned a space, as explicitly taught by Summers (see col. 2, lines 43-46).

Response to Arguments

7. Applicant's arguments, see pg. 5, lines 10-12, filed on 25 July 2008, with respect to claim 1 have been fully considered and are persuasive. The objection to claim 1 under 35 USC 112 has been withdrawn.

8. Applicant's arguments with respect to claims 1-11 have been considered but are moot in view of the new ground(s) of rejection. The newly amended claim 1 and claims 2-11, dependent thereon, are addressed in the new grounds of rejection under 35 USC 103, supra.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JUSTIN V. LEWIS whose telephone number is (571)270-5052. The examiner can normally be reached on M-F 7:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dana Ross can be reached on (571) 272-4480. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dana Ross/
Supervisory Patent Examiner, Art Unit 3725
/JVL/